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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/633,299

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Assaf Govari

BIO-5023

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7590

10/17/2007

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NEW BRUNSWICK, NJ 08933-7003

EXAMINER

KISH, JAMES M

ART UNIT

PAPER NUMBER

3737

MAIL DATE

DELIVERY MODE

10/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/633,299	<b>Applicant(s)</b> GOVARI, ASSAF	
	<b>Examiner</b> James Kish	<b>Art Unit</b> 3737	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed August 3, 2007 have been fully considered but they are not persuasive.

Applicant argues that the amendments have been added to more particularly point out the claimed invention. The Examiner respectfully disagrees that the claims are in condition for allowance over the prior art. The claims are directed toward an apparatus for placement into a patient comprising a position sensor and a memory for storing calibration data. The specification clearly states, "Optionally, such calibration is performed using procedures described in the above-mentioned US Patent 6,266,551 to Osadchy et al.(Lines 7-9 on page 17)." Also found at page 13, lines 13-18, it is stated, "Therefore, in an embodiment of the present invention, position sensing device 28 is calibrated, taking into account variations in the respective gains of the coils, and, optionally, one or more of the other variations described above, before the catheter is inserted into a patient's body. In an embodiment, this calibration is performed using one or more test fixtures and methods of calibration described in the above-mentioned US Patent 6,266,551 to Osadchy et al." Therefore, the apparatus that is associated with the claimed methods of US Patent 5,266,551 comprises at least, an apparatus for placement into a patient comprising a position sensor and a memory for storing calibration data, as claimed in the present application.

Applicant also argues that Strommer does not read on claim 25 because claim 25 is "adapted to be incorporated into an elongated probe." This argument is found

moot because that claim language is found in claim 24. Claim 25 is directly dependent from claim 23.

Therefore, the rejections stated in the Office Action dated February 12, 2007 still stand and are repeated below.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23-24 and 26-37 rejected under 35 U.S.C. 102(b) as being anticipated by Osadchy et al. (US Patent No. 6,266,551). Osadchy discloses a probe for insertion into the body of a subject and including an electronic microcircuit, which stores information relating to calibration of the probe. The calibration information includes all or any combination of the following: data relating to deviation of the coils from orthogonality, data relating to the respective gains of the coils and/or data relating to the relative displacement of the distal tip from the coils (column 2, line 64 through column 3, line 4). This calibration information includes data relating to signal non-linearities (column 3, lines 19-22), data calculated by differences between signals generated by a first and second master coil (column 14, lines 40-54) and the calibration data may also relate to a proportionality to a directional component of the magnetic fields (column 9, lines 4-13). Regarding memory, see column 5, lines 21-32 and column 7, lines 21-39.

Alternatively or additionally, at least some of the calibration data are determined by applying spatially variable magnetic fields to the probe (column 9, lines 6-8). For further description of the Osadchy reference, see column 2, lines 18-63 and column 4, lines 7-27.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osadchy in view of Strommer et al. (US Patent No. 6,233,476). Osadchy discloses a probe for insertion into the body of a subject and including an electronic microcircuit, which stores information relating to calibration of the probe, as described in the rejection of claims 23-24 and 26-37. Osadchy does not explicitly state that the position and orientation sensor can be utilized in a capsule, however, it is disclosed that the catheter is a wireless catheter which is not physically connected to the signal processing and/or computing apparatus. Rather, a transmitter/receiver is attached to a proximal end of the catheter. One benefit of this type of configuration is that the catheter, which is inserted into the heart, can easily be made electrically floating. Strommer teaches a method and system for initiating and calibrating the location and orientation of an objects and a detector system within a scanning volume. It is noted that the housing for the

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positioning object can be shaped like a capsule (column 3, lines 44-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to broaden the scope of Osadchy by placing the positioning device into a capsule as taught by Strommer because even within the catheter the system is electrically floating and isolated, thereby making the capsule configuration an obvious variant of that of the catheter.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Kish whose telephone number is 571-272-5554. The examiner can normally be reached on 8:30 - 5:00 ~ Mon. - Fri..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMK

  
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